

**North Dakota  
State Planning Report  
October 1, 1998**

**submitted by Legal Assistance of North Dakota, Inc.**

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**North Dakota LSC State Plan  
September 30, 1998**

**Brief Description of the State Planning Process**

The state planning process during 1998 was extremely simplified and streamlined. During the first planning process in 1995, representatives from client groups, the judiciary, the bar and community service programs, as well as the law school were present and participated.

There have been some major changes in intake and technology since the first plan was written. However, since LAND and NDLS continue to have a close working relationship, and limited resources, much that is done, is done jointly. There was little innovation in the initial plan, despite solicitation of ideas. Funding decreases have forced 3 years of evaluation of service delivery maximizing what limited resources remained, with annual updates to the bar and state funders.

During this renewed effort three years later, feedback from the Bar and judiciary was that there had been so much planning and so much committee work in the legal services area and in other areas that the preference would be for the legal services programs themselves to develop a state plan. Its goals and steps would then be addressed in conjunction with these organizations. Some of the client input for the development of this plan was obtained from client surveys distributed throughout the state of North Dakota during 1997 and 1998.

**1. Intake, Advice and Referral**

How are intake and delivery of advice and referral services structured within the state?  
What steps can be taken to ensure a delivery network that maximizes client access, efficient delivery, and high quality legal assistance?

**Current Approach**

The current delivery system in North Dakota for intake and referral is unique to each program.

Legal Assistance of North Dakota has reduced its circuit riding considerably during the 1990s. This has been replaced and improved with the extensive use of telephone intake. During the time of the last state plan, LAND was doing primarily telephone intake on a regional centralized basis throughout the state. As of June 1, 1998, LAND transitioned to a program-wide, which is effectively a state-wide intake system located in the Minot office of Legal Assistance of North Dakota. There is now one toll-free number ending in the word LAND that clients can call to access intake and referral services provided by Legal Assistance of North Dakota. Those clients who cannot access a phone or because of other telephone access barriers, may contact local offices for more specialized intake assistance. The centralized intake unit answers calls four mornings a week Monday through Thursday from anywhere in the state. Elderly and those with emergency

situations will have their calls accepted at any time when the office is open. The office utilizes an auto attendant answering service which gives clients the option of listening to information on LAND's intake hours, the types of cases it does and does not accept and provides quick and easy access to a staff person for the elderly and those calling with emergencies. The purpose of this system is three fold. The first is to provide better, easier statewide access to Legal Assistance of North Dakota through one toll-free number that providers, courts and others can remember and utilize more easily. The second purpose is to provide assistance to more people in a specialized manner and a uniform manner throughout the state. The last is to be able to refer to the LAND regional office's cases which need more work than brief advice and brief service. In that way, local office staff will have more time to do more in-depth case workups and other legal services activities such as community education.

North Dakota Legal Services does a combination of telephone intake, outreach and in-person intake. North Dakota Legal Services is funded to serve McKenzie County and the Fort Berthold Reservation in west central North Dakota. Through a subcontract with LAND it also serves counties surrounding the Fort Berthold Reservation.

Dakota Plains Legal Services, an LSC funded program headquartered in Mission, South Dakota, and primarily serving the Native American reservations in South Dakota, also serves the Standing Rock Reservation, which is partially located in North Dakota and partially located in South Dakota. Intake is somewhat by phone, but primarily by in-person interviews.

Migrant Legal Services program component is a unit of Southern Minnesota Regional Legal Services which is headquartered in St. Paul, Minnesota. This program serves the Red River Valley of Minnesota and North Dakota primarily, although it has assumed responsibility to serve migrants in the state of North Dakota. This work is done by virtue of a joint venture agreement between LAND and Migrant Legal Services, which joint venture agreement has been in existence since the early 1980s. The joint venture agreement acknowledges the significant resources available to Southern Minnesota Regional Legal Services, as well as the years of special expertise in issues impacting on migrant farm workers.

There is one other legal services provider who serves a considerable client population in North Dakota but is not directly funded by the Legal Services Corporation. That entity is the University of North Dakota School of Law Clinical Program and Legal Aid Association. That program serves residents in Grand Forks County, North Dakota which city of Grand Forks is the second largest city in the state and has a significant low-income population. The program also serves low-income Native Americans residing on the Spirit Lake Reservation in North Central North Dakota. Although this program receives no LSC funding, LAND does subcontract state filing fee surcharge funds and IOLTA funds to the clinical program. In particular the work the program does for the Spirit Lake Reservation provides experience to law students in working in the area of Indian law and with Tribal Courts and Tribal jurisdictional issues. With five reservations partially or wholly in the state of North Dakota and 4% of the population in the state being Native American, developing attorney resource and experience is extremely beneficial. Intake by the law

school is primarily by phone for Grand Forks County residents, although there are some in-person interviews. For Spirit Lake clients, there is regular outreach for in-person interviews to the Spirit Lake Reservation. There is a toll-free number which will provide access to the law school for Spirit Lake residents since the Spirit Lake Reservation is located approximately 105 miles from the law school.

### Assess the Strengths and Weaknesses of the Current System

**Strengths:** Pockets of clients served by non-LAND programs serve very specialized needs. Reservation based clients with reservations 150 miles apart need local access due to the culture, the legal issues involved, separate Tribal Court systems and the types of problems these clients have which need more than simple advice in many instances. North Dakota Legal Services and Dakota Plains Legal Services are located on the reservations themselves. Staff specialize in Indian law. Because of the flexibility afforded a small community based program, they are able to quickly respond to a range of basic needs, develop a critically important close working relationship with tribal governmental entities which benefits clients through enhanced negotiation effectiveness and better knowledge of how the systems actually work on a day to day basis. It also ensures enhanced referral and access of clients to legal services.

The same can be said of the Migrant Legal Services program. Because of the specialized nature of the law, the culture, and varied and complex legal needs of the clients, close physical proximity and visibility is critical to meet equal access to legal services.

With regard to LAND, it is anticipated that although the percent of advice and counsel and brief service cases will increase with centralized intake, the number of clients who are able to access LAND in the post major LSC funding cut era, should increase. It is also anticipated that without having to do intake, referral and staffing, there will be more time for in-depth case development. Uniformity of intake, uniformity of eligibility decisions, uniformity of advertising for access to services all should increase the quality and accessibility throughout the state of North Dakota. Instead of having to use sophisticated systems in all offices to improve the intake process, resources can be concentrated in the centralized intake unit with a comprehensive auto attendant system, and case management and intake software which allows preparation of data and information used for important management and quality of legal services functions in one location.

Individual staff offices in North Dakota, whether a LAND branch office or another program office have a small number of legal staff, but the staff have experience in a broad range of legal problems, so no matter which office is contacted there is experience or expertise. Each office has particular areas of expertise which is shared with other offices and other programs.

**Weaknesses:** Having a number of programs doing intake to provide services results in a number of different access phone numbers, addresses, and priorities. Cross jurisdictional referrals sometimes become confusing to providers and clients. Eligibility standards and priorities are not

uniform from reservation to reservation or from one program to the next. Callers from one community wonder why someone is accepted in another community when both parties had the same legal program or financial circumstances.

In North Dakota, there are still many people both low-income and non low-income who do not like utilizing automatic voice systems. Many can avoid using these systems for the most part, unless contacting a government agency or large corporation. In a survey done by LAND as part of its priority setting process, a large number of elderly people indicated they would be frustrated by an automated phone system to which they had to press various buttons and wait considerable time to speak with a person. It is universally agreed that if the auto attendant system was not the first contact the client had when accessing LAND, the word of mouth referral to use the LAND statewide intake system would be more positive. Many legal services staff consider Centralized Intake a siege mentality brought about by lack of resources.

**Goal 1:** Analyze and act to modify Centralized Intake so that there can be more hours of intake calls answered with full legal problem check from a comprehensive checklist with less waiting time for clients.

**Major Step 1:** Secure additional funding to expand Centralized Intake so that it can be the gateway for all people who need legal aid help throughout the state of North Dakota, no matter what program would end up servicing.

Timetable: 2 years It will be necessary to access foundations and corporations in particular, as well as trying to increase state IOLTA funds enough to fund a special initiative to upgrade the technology. Then it will be necessary to locate core ongoing funding, either from a statewide campaign, from IOLTA or from filing fee surcharge increases to hire the additional staff and pay for the telephone services which will be necessary to conduct this kind of statewide effort. The fundraising component of this will be addressed under the fundraising topic.

**Major Step 2:** To hire additional staff for the Centralized Intake Unit to make it feasible to expand the daily hours to take calls, 5 days a week and to accommodate the increased number of calls from advertising statewide one toll-free number for all access to legal services in North Dakota.

Timetable: 1 year

**Major Step 3:** Prepare checklist

Timetable: 6 months.

**Goal 2:** To assess feasibility and if possible act on converting LAND Centralized Intake into the statewide legal aid screening and referral center for North Dakota.

**Major Step 1:** Assess technology needs to connect all legal services programs by telecommunication for forwarding and rolling over calls from the Centralized Intake location.

Timetable: 2-4 months

**Major Step 2:** Fund and implement telephone technology that would enable call forwarding and rolling over of calls to the appropriate legal services provider in the state of North Dakota after preliminary screening and assessment. This would include upgrading the various legal services providers' equipment to ensure that when clients are referred they would be able to get through to access provider's services.

Timetable: 2 years

**Major Step 3:** Develop checklists and standards so that the statewide system can be conducted in a coordinated fashion and a uniform basis. This effort will also include a system to share basic information about legal issues encountered in a way that will promote high quality of legal services and coordination of effort without violating ethical parameters or triggering LSC restrictions on cooperating entities.

Timetable: 1 year

**Major Step 4:** Access what additional staff and other resources, if any are needed to secure these resources. Upgrade information to include all legal services providers.

Timetable: 2-3 years

## **2. Technology**

Is there a state legal services technology plan? How can technological capacities be developed statewide to ensure compatibility, promote efficiency, improve quality, and expand services to clients?

### **Current Approach**

Currently there is no formal statewide legal services technology plan. LAND and NDLS have been keeping in contact with one another with regard to what our technology capabilities and future plans are. LAND and NDLS both use TurboCases. When LAND planned upgrading to Kemps Clients for Windows, NDLS was informed. When LAND learned that LEXIS no longer provided free access to limited time research via on-line or Internet service, NDLS was informed since as a joint user with LAND in that endeavor. When LAND and NDLS were exploring on-line alternatives to hard cover law libraries due to decreased funding, information was shared by both programs on what resources were available and how useful they were. Currently, LAND

offices all have level 1 computer capacity and all are networked within each office. All have Internet capability.

North Dakota Legal Services also has level 1 capability. It uses Internet access capability to research on-line and utilizes external e-mail. NDLS does not have a toll free line, nor does it have call-forwarding or rollover capabilities with its telephone equipment. NDLS has case management and timekeeping software through TurboCases. This software is compatible with the TurboCases LAND was using program-wide until May of 1998. During that month, LAND started the transition from TurboCases to Kemp's Clients for Windows 3.5. In September LAND upgraded to Kemp's Clients for Windows Version 98-1. LAND continues to run TurboCases until Kemp's Clients for Windows is fully up and operational and can generate the types of reports needed.

**Strengths:** LAND has just completed a program-wide upgrade of computers to Pentium, Internet and e-mail capability. LAND has an extensive automated attendant system in its Minot office which is utilized for operating Centralized Intake program. This automated attendant has the capability of delivering numerous instructions and messages in creating numerous boxes for clients as well as voice mail. The system also has call forwarding and call roll-over capabilities to any location. LAND is in the process of developing a WebPage in which visitors can access information about LAND generally, its services and community education and ordering.

North Dakota Legal Services has upgraded its 2 main computers to Pentiums. The program has modem capability which is used for electronic reporting as well as Internet access and external e-mail. North Dakota Legal Services is also utilizing a comprehensive case management software program, TurboCases, which provides conflict checking, case management and timekeeping. NDLS would upgrade to Kems if funds were available.

**Weaknesses:** Y2000 compliance assessment is problematic. Although vendors such as Microsoft profess that their current products are compliant, analysts and troubleshooters have discovered otherwise. There are a number of potential problems with hardware and software realtime clocks. Compact asserted on its WebPage that all products sold after October 1997, which is the time period which LAND updated its computers to Compaq, were all Y2000 compliant. However under some circumstances it has been reported there will be problems with Compaq realtime clocks as well.

Transferring data quickly and easily throughout LAND's 4 offices, subcontracts and the administrative office to ensure that case updates, timekeeping and case statistics are available when and where needed, really requires a wide-area network. Using a T-1 line or a dedicated 56K line to create such a wide-area network, appears cost prohibitive due to the LATA line and the cost of different local phone companies having to work with one another to provide that service locally, as well as throughout the state.

With security questions about information traveling on the Internet, that option is not a viable one at this time, without further in-depth research. LAND at one time had a part of a position devoted to technology matters. Assistance was provided to NDLS if requested, such as training on TurboCases. Now with reduction in staff there is no one on staff that can be assigned to fill that role. There must be much more reliance on outside vendors and providers than before, with a significant increased cost in keeping the technology functioning.

Both LAND and NDLS lost free access to LEXIS which had been provided by a joint agreement with Mead-Data and the UND School of Law and the State Bar Association, due to a billing dispute between UND and LEXIS which resulted in termination of the contract. Unfortunately this was not communicated to LAND or NDLS. When LAND discovered that action at the end of December 1997, LEXIS had no interest in reducing its price to retain LAND and NDLS. LAND and NDLS offices are now using the State Supreme Court WebSite for recent Supreme Court decisions, and the N.D.C.C. and the Internet to access federal laws and regulations. The federal WebSites have proved very time consuming and cumbersome. However, replacement costs for a service such as LEXIS appear to be beyond the resources of LAND and NDLS at this time. NDLS did a trial with VERSA Law and provided feedback to LAND on its capabilities.

**Goal 1:** To develop a wide-area network among the 4 offices of LAND.

**Major Step 1:** To address the data transfer issue, LAND will obtain information on data replication and attempt to use data replication on a weekly basis to upgrade the information on all LAND networks.

Timetable: 6 months

**Major Step 2:** Continued exploration of using a line similar to a T-Line, a dedicated 56K line or similar conduct, to connect offices in a wide-area network and securing the funds to pay for those services.

Timetable: 5 years

**Goal 2:** To achieve legal research capabilities on-line or on CD rom for LAND and NDLS in a joint venture, if feasible.

**Major Step 1:** Utilize alternative on-line services for legal research on a trial basis and selectively implement those services in offices with the greatest needs based on access to other legal resource materials. To attempt to combine access to any services with NDLS.

Timetable: 6 months



**Major Step 2:** To obtain CD rom capability and purchase select law library CD rom materials.

Timetable: 1 year

**Major Step 3:** To provide fast, effective on line/Internet legal research capability to all.

Timetable: 2 ½ years

**Goal 3:** Upgrade NDLS to Kemp's Clients for Windows at the same version as LAND.

**Major Step 1:** Secure funding to upgrade NDLS to Kemps, LAND version.

Timetable: 1 year

**Goal 4:** Establish computer technical assistance capability, preferably in-house, for use by LAND and NDLS.

**Major Step 1:** Provide ongoing training to staff in the use of technology and to develop advanced technological expertise in each office or the capacity to access each office remotely by someone within LAND or NDLS who has advanced technological expertise.

Timetable: 1 ½ years. Identifying entities or persons who will provide technological training to staff at a reduced fee will take approximately 6 months. To actually provide training and set up a plan to provide ongoing training to the technology people identified will take a year.

**Goal 5:** Create a statewide legal services technology plan.

**Major Step 1:** To meet with all legal services providers, State Bar Association representatives and Supreme Court representatives to discuss and develop a state technology plan for North Dakota. The plan will include allocation of resources, identifying specific needs for each program to upgrade and coordinate services and information.

Timetable: 6 months

**Goal 6:** Create a legal services WebPage for the state of North Dakota with links to individual WebPage sites to North Dakota programs.

**Major Step 1:** Utilizing expertise at UND Clinical Program, which currently has its own WebPage and the programmer working with LAND on its WebPage, design a legal

services WebPage for North Dakota. Format and content development would involve all providers of legal services to the poor and disadvantaged in North Dakota, including the State Bar and the Protection and Advocacy Project, as well as clients

Timetable: 3 years. Completion and funding of LAND's WebPage will take another 6 months. Consulting with other legal services programs, clients and the Joint Committee on Civil Legal Services to the Poor in the development of a WebPage will take 6 months. Seeking funding and preparation of the WebSite will take 2 years.

**Goal 7:** To upgrade telephone capability throughout the state for roll-over, call forwarding, as an aid to Centralized Intake.

**Major Steps:** See Topic 1, Intake for discussion on this step.

### **3. Access to the Courts, Self-Help and Preventative Education**

#### **Current Approach**

Legal Assistance of North Dakota has an integrated system for developing, tracking and disseminating community education brochures. Brochures are categorized as elderly, or non-elderly and are numbered and dated when revised or developed. Staff persons are assigned for responsibility for updating identified brochures and for developing new brochures. Brochures are disseminated as community education presentations, are available in law offices and an order blank for brochures is incorporated into the legal services publication "Legal Update", which is a joint venture of LAND and NDLS. Ordering information will also be available on LAND's WebPage when it commences operation. Community education brochures are also included in mailings to clients who call in for advice and brief service primarily.

NDLS also publishes community education materials. Presentations are also conducted by LAND and NDLS. LAND does regular presentations to elderly and elderly service providers as part of its Title III contract. The Minot office of Legal Assistance conducted a Wednesday night community education night once a month in which providers and clients were notified and outside speakers as well as LAND staff made or contributed to the presentations and the materials. LAND and NDLS have done presentations to community groups, youth clubs, schools and service providers upon request.

LAND had developed a packet of pro se materials when it operated its private attorney involvement volunteer programs. With the end to those volunteer programs due to outside events, those materials have been maintained and distributed by law offices. They are primarily in the area of family law. Law offices developed self-help kits for claims of exemption and other collection problems.

NDLS has been active in developing child support and divorce pro se kits for use on the Fort Berthold Reservation. NDLS also assists in the demonstration project for pro se divorce being piloted by the North Dakota Supreme Court in counties served by NDLS. This demonstration project is limited to approximately 4 or 5 counties in the entire state of North Dakota. UND Legal Aid Association significantly participated in the development of the pro se forms for this demonstration project for the district judge who oversees the project.

Both LAND and NDLS have worked with the Bar and the judiciary in various projects to facilitate access to justice in North Dakota. Primary vehicle for this participation is through the Joint Committee on Civil Legal Services to the Poor. This is a State Bar Committee with appointees by the legal services programs and the Supreme Court as well as the State Bar. This committee has been chaired in the past by the Executive director of LAND and is currently being chaired by the Executive director of NDLS. This committee has established liaisons with the Volunteer Lawyer Committee of the State Bar, the ADR Committee of the State Bar and special family law task force to streamline access in family law cases. This later project was originally based on a legislative study resolution targeting low-income persons, however the task force expanded its work to cover both low-income and non low-income persons.

LAND also has been working closely with the State Association of Domestic Violence programs in providing technical assistance in the development of pro se protection order kits on a uniform basis throughout the state with the Supreme Court.

With the Joint Committee on Civil Legal Services to the Poor a brochure or information sheet is being developed which will be sent out to all courts in North Dakota providing a brief identification on civil legal services programs, what types of work they do and how to access them. This is being used as a precursor for the anticipated statewide centralized intake in the future. The executive director of LAND has been a member of the Public Information Committee of the Supreme Court working with the clerks to help define what kind of training the clerks need based on requests from members of the public who have questions about the justice system or access to justice. These questions primarily come from low-income persons.

The executive director of North Dakota Legal Services has been participating in the state/tribal work group to resolve state/tribal jurisdictional problems to provide clear, coordinated efforts at justice in North Dakota at the request of the Supreme Court. The interim task force working on access to courts in family law matters for low-income persons, LAND was copied all materials. The director of the clinical program at UND and also a member of the Joint Committee on Civil Legal Services to the Poor, was appointed to that committee.

**Strengths:** Because North Dakota is a rural, sparsely populated state, it is possible to get to know a large number of attorneys and judges and become active and have an impact on Bar and judicial matters. It has allowed, particularly through the Joint Committee on Civil Legal Services to the Poor, legal services programs to coordinate their efforts with those of the Bar and the judiciary. It is because of the good working rapport among these three entities that the Bar and judiciary has

taken primarily a hands off approach to dealing with the delivery of legal services issues. Between receiving funds from the filing fee surcharge and through the Supreme Court rule on Interest on Lawyers Trust Accounts administered by the State Bar Foundation who has as its executive director, the executive director of the Bar Association, leadership in these two segments of the justice community are well apprized of the efforts of legal services programs in North Dakota.

Providers are eager to disseminate information on legal rights and responsibilities and generally are familiar with local legal services offices. The development of a brochure bank, which is tracked and developed and disseminated ensures that the information provided in written form by Legal Assistance of North Dakota is made available in an accurate and updated form throughout the state. The high regard with which the director of NDLS is held by the Bar and the judiciary ensures that with regard to access to justice issues, especially as it impacts on Native Americans and interfaces with the state judicial system, these entities know they have a reliable, trusted expert to provide input.

**Weaknesses:** Pro se initiatives are still regarded with concern throughout most of the justice system in North Dakota. This has slowed the development of organized pro se projects in the state and the resources available for such projects. The divorce demonstration project being operated in approximately 5 counties in the state was a major step in this exploration of the value of pro se representation versus attorney representation. However, North Dakota is a long way from developing the kind of Kiosk system you see in Phoenix, Arizona. The reduced staff in legal services programs and the thinness by which these staff are spread to deliver front line legal services in case representation and advice to clients versus supportive services begins to be evident in the development of pro se projects and sophisticated extensive community legal education materials. It is hoped with the advent of the LAND WebPage there will be greater exposure by providers, at least, to the materials that are available and for providing input on what kind of services are needed in the future. While progress can be made in all of the areas under this topic, small projects need to be undertaken one at a time, usually which, without additional staff, make major strides difficult without active participation of the Bar. While there are members of the Bar that have helped develop some community education brochures, and a pro se video on tribal court family matters, on the whole it is a time consuming process to solicit, secure, oversee and utilize these resources with the limited staff at present.

Neither LAND nor NDLS has taken a significant role in implementing or developing ADR or mediation services for low-income clients. The director of the UND clinical program is a member of the ADR committee and has done work on developing a mediation project for divorces in Grand Forks County, however the work has not been able to be extended beyond that limited demonstration project.

**Goal 1:** Develop uniform set of community legal education materials which will be used by all legal services providers and disseminated to providers in quantity by LAND.

**Major Step 1:** Convene a meeting of legal services providers with materials produced by each. Agree on content, publication and utilization of joint community education materials.

**Major Step 2:** Produce a uniform set of materials with the assistance of the private bar.

Timetable: 18 months

**Goal 2:** Identify new pro se materials in conjunction with other legal services providers, the court and the bar and client representatives.

**Major Step 1:** In conjunction with the Volunteer Lawyer Project of the Joint Committee on Civil Legal Services to the Poor, the Public Information Committee of the Supreme Court, the Judicial Conference and the State Bar Association of North Dakota and other relevant groups identify areas in which pro se materials would be acceptable and produce a plan for the development and dissemination of those materials. Establish a workgroup, including clients, to identify and prioritize specific pro se materials for development.

Timetable: 1 year Based on the range of input needed, the assessment and compilation of input, the production of a plan, it could take a year.

**Major Step 2:** Production of materials using legal services staff, private attorneys and the court system.

Timetable: 1 ½ years: The actual production of a plan, due to the need for editing by multiple entities to ensure acceptability, could take 1 ½ years. This has been a very delicate situation in the past, when producing model forms, guidebooks, practice books, or other written materials.

**Goal 3:** Develop a plan for establishing a specific ADR or mediation project for low-income and other disadvantaged populations in North Dakota.

**Major Step 1:** Consulting clients regarding which legal problem areas and under what conditions they would feel comfortable using mediation as an alternative to litigation or confrontation to solve problems.

Timetable: 6-8 months

**Major Step 2:** To research new or additional mediation efforts which had been successful in other states since the last analysis.

Timetable: 6 months

**Major Step 3:** Working with the State Bar and judiciary, identify up to 3 projects which would be supported by all entities and secure funding for at least one project.

Timetable: 2 ½ years

#### **4. Coordination of Legal Work Training, Information and Expert Assistance**

##### **Current Approach**

LAND has shared technical expertise and substantive expertise with North Dakota Legal Services and visa versa. North Dakota Legal Services provides expertise on non-routine Native American issues and farm issues. LAND provides expert technical assistance and resource information in the area of public benefits generally and elderly law issues. Both programs have experience and expertise in family law and consumer matters and routine landlord/tenant matters. The UND Legal Aid Association director also makes students available to do legal research and writing in the areas where staff does not have the time or resource to do this sort of work. Backup centers are used particularly those in elder law, Native American issues, consumer law, and public benefits law. Although access to various legal information WebSites has been explored, it still does not seem to be anywhere near as helpful as placing a direct phone call.

**Strengths:** Legal services programs share information and expertise, albeit an informal fashion. There is a spirit of cooperation and coordination in this endeavor. LAND does an annual assessment of training needs and desires of staff, including NDLS. Whenever LAND sponsors training it invites LAND, NDLS, Dakota Plains and Migrant Legal Services to participate on the same level as its own staff. PAI contract attorneys are always notified. VLP attorneys are sometimes invited, depending on the topic. The State Bar Association's CLEs are well advertised and legal services staff are generally approved, given that financial resources are available.

The Internet is being used to access outside resources as well as the Supreme Court WebPage for information. The law offices located in Fargo and Bismarck have access to significant community law libraries. The Director of Litigation for LAND also supervises the casework for 3 of the 4 regional offices of LAND and in that regard has virtually an ongoing daily statewide view of legal issues impacting on clients and whether these issues are statewide or regional. Periodic trips and meetings with the Managing Attorney of the Minot office and the Centralized Intake Unit provides a holistic picture for the state of North Dakota served by Legal Assistance of North Dakota. At the present time, statewide trainings in which other legal services providers are invited are used as opportunity to exchange ideas, information and case law developments with those from other programs.

**Weaknesses:** The Devils Lake and Minot offices do not have any direct access to significant law library resources. They are relegated to relying on the Internet and a limited in-house law library. With the major funding cuts and free LEXIS, LAND and NDLS opted to cut back its hard copy library to save costs. Shortly thereafter these programs learned that LEXIS would only provide

services on a full-rate schedule. Negotiations with LEXIS led nowhere because the number of staff was not significant enough for LEXIS to consider a discount. There is no CD Rom library in any of the offices of LAND or NDLS. There is no central brief bank or Clearinghouse function due to the lack of staff, or other resources to support this position. The programs have been unable to locate a resource outside of legal services to support such a function. There is no on-line legal research service being purchased at this time. All legal research on the Internet is done through public pages and public access documents such as government access to the CFRs and various law school access to legal publications and some decisions.

**Goal 1:** To provide adequate law library resource access to all legal services offices in North Dakota. (See Topic 2)

**Goal 2:** Develop practice manuals in critical areas of poverty law for which there is no affordable alternative, as well as a forum to develop and exchange information on case precedent in North Dakota.

**Major Step 1:** Identify practice manuals needed and select no more than two to produce. Solicit Private Bar assistance in the development of those manuals.

**Major Step 2:** Re-institute the outdated statewide legal brief bank and produce a quarterly newsletter to alert staff of additions and summarize issues of general interest.

Timetable: One year, given the funding initiatives are successful.

## **5. Private Attorney Involvement.**

### **Current Approach**

As stated in the past, LAND's two very active volunteer programs were terminated as a direct result on the one hand from LSC restrictions, and on the other from the State Bar ethics opinion which makes the operation of volunteer, corporate and government program in North Dakota unworkable in comparison with other states who might have similar programs.

Both LAND and NDLS utilize private attorneys on an extensive basis to do casework. Both have a contract system, but it is a very open contract system, close to that of a judicare concept. Legal services providers keep abreast of types of cases being accepted by the State Bar Volunteer Project and Reduced Fee Project so that the proper referrals can be made. In unique or emergency situations referrals are made by phone or legal staff confer with each other regarding what the best avenue for assisting the client can be taken. Swift and effective coordination of volunteer activities regarding the private bar have been demonstrated by the statewide response to the flood disaster in North Dakota in 1997. Within 2 weeks, well before the planned scheduled involvement by the ABA and FEMA, LAND and the State Bar Association and North Dakota Legal Services had constructed a statewide toll-free legal services number, mobilized a number of private attorney

volunteers to take calls, and set up a staffed centralized intake, advice and referral hotline in Minot, utilizing Minot's staff and North Dakota Legal Services staff and a former legal services attorney. The information and referral advice hotline took over 600 calls within a 6 or 7 week period and a very reduced number of calls for the next 4-6 weeks before being terminated.

**Strengths:** The strengths are the knowledge of the Bar in general of the legal services programs in the state and their general service areas. The ability to mobilize a coordinated effort between the Bar and the legal services programs on a specific agreed upon project, even in emergency situations. An open contracting system in which attorneys are recruited and utilized extensively throughout the state of North Dakota. The operation of the Volunteer Lawyer Program and the Reduced Fee Program by the Bar Association is coordinated by the staff liaison from the Bar Association to the Joint Civil Legal Services to the Poor Committee. In that way, State Bar staff input coordination is gained directly by the legal services programs. During the last legislative session, the Joint Committee on Civil Legal Services to the Poor endorsed and recommended to the Board of Governors an increase in the filing fee surcharge for funding civil legal services to the poor in North Dakota. The State Bar Executive Director took the lead in that project and was instrumental in securing the additional moneys for legal services. LAND sponsors a PAI CLE annually at the State Bar Association. It is always at least one day, and sometimes up to two days long on topics in which the role of private attorneys in delivering services to low-income and disadvantaged persons is of great benefit to North Dakotans. This CLE is presented at no cost to active volunteer attorneys identified by the State Bar, contract attorneys from legal services programs, and to legal services staff members.

**Weaknesses:** Staff resources for the development of new private attorney initiatives that have already been identified, but cannot be made operational without additional staff resources. The increasing burnout rate among members of the private bar in taking critical family law cases, and therefore diminishing the pool of volunteer and contract attorneys in this respect. Recruitment is an ongoing function. It is doubtful whether or not a full scale judicare program could come anywhere near meeting the needs of low-income clients in North Dakota. Due to the fact that North Dakota is a sparsely populated state, state funded is limited, State Bar resources are limited as well as legal services providers being limited. It makes developing additional funds perhaps more difficult than in other areas.

**Goals:** To explore the development of a quasi judicare panel in North Dakota to attempt to increase the number of attorneys available throughout the state to take cases. This limited judicare concept could be a combined function of LAND and NDLS and will be explored as well.

**Major Step 1:** Obtain input. Working with private bar develop a method for obtaining private attorney input on judicare participation, while at the same time consulting with judicare providers, LSC, ABA and other legal services programs to identify interesting models that may work in North Dakota including joint program judicare efforts. Develop a system for client input on types of cases to be done by private attorneys,



conflicts and effective access to local attorneys and assess the evaluations returned on current contract attorneys by clients.

Timetable: 1 year

**Major Step 2:** Produce a report and recommendations

Timetable: One year

**Goal 2:** To contract with private bar to work on select special projects with emphasis of joint projects of LAND and NDLS

Time: 4 months for set up thereafter, ongoing as needed.

## **6. Diversified Funding and Coordination of Resource Development Efforts.**

### **Current Approach**

LAND used to have a development position, which, ironically had to be eliminated in order to keep staff and offices throughout North Dakota. LAND is a statewide program. Based on repeated analysis the result is the same. If at all possible, preserve services and visibility in at least the 4 quarters of the state. The state cannot be served from one location effectively in areas of poverty law not handled by private practitioners. North Dakota Legal Services is a small Indian legal services program which does not have the resources or the luxury of having a development person. There is a filing fee surcharge for civil legal services to LSC funded programs. These Legal Services programs work out a formula for the distribution of filing fee surcharge funds which comports with state law and meets the requirements of the commission overseeing the filing fee surcharge fund distribution. In that way, although separate applications come into the Indigent Legal Services Commission, the funds can be distributed on a prearranged formula given the reports submitted shows the programs are doing what they propose to do.

There is also a mandatory IOLTA program based on North Dakota Supreme Court rule which lists funding of civil legal services for poor as a priority. LAND submits one application for itself, for UND Law School, for North Dakota Legal Services and for Dakota Plains Legal Services. LAND is responsible for the administration of all of the IOLTA funds and to ensure that a comprehensive report is submitted to IOLTA at the appropriate time. The SBAND VLP applies for funding on its own.

LAND currently receives money from United Ways in Fargo, Jamestown, Bismarck, and Williston although it has attempted to obtain United Way funds in other communities, the receipt of those funds has been null or inconsistent. Due to the small size of towns in North Dakota, the largest being 70,000 in Fargo, the size of United Ways and the amount of grants are relatively small. The largest grant is in Fargo for not quite \$9,000. Given the fact that legal services providers have to

competitively bid for Legal Services Corporation funds and for Aging Services funds as well as any other federal funding that may come available for the state of North Dakota, and for foundation funds, it is a very time consuming process. Staff resources must be devoted to developing proposals for the Legal Services Corporation and Title III, Filing Fee Surcharge and IOLTA above and beyond all other funding opportunities. This is because they are core funding.

LAND currently has a 2 year grant from the Bremer Foundation to do followup legal work on behalf of low-income flood victims in the Red River Valley. There is a possibility that with the downturn in the agricultural community in North Dakota there may be a new, revised farm law project joint effort between North Dakota Legal Services and LAND to help financially distressed farmers and ranchers. This is very promising due to the foundation funding history of the joint Farm Law project operated by LAND and NDLS in the 1980s with NDLS overseeing the last 2 years of the project.

In 1997, LAND submitted a proposal to NAPIL for a fellowship on a special domestic violence project. LAND secured the funding contingent upon raising \$30,000 in local match. LAND was unable to raise the \$30,000 in local match in some part due to the fact that the community needing the services was also one of the communities hard hit by the spring 1997 floods. The result was that most resources were going to flood recovery efforts and organizations in the community that suffered losses due to the flood.

LAND and NDLS have also applied for domestic violence grants that became available based on an RFP last spring. No word has been received as to the disposition of those proposals at this time.

NDLS has received STOP grant funds for domestic violence work in the Three Affiliated Tribes Reservation.

From 1993 to 1996 LAND operated an active attorney campaign to raise funds to supplement core funding. In 1993 - 1996, LAND had a development director to oversee the operation of this effort. Even though, in total, the effort brought in more money than the costs of supporting the position, it was one of the positions that was cut. Subsequently, LAND has been able to followup on pledges that have been made and not yet been fulfilled, but has not been able to mount a major campaign after that time. In 1993, LAND also developed a special event called the Run for Justice on Law Day. This generated about \$4,000 - \$7,000 in income which was split between LAND and the State Bar Volunteer Lawyer Project. In 1997 without a development director to oversee that special project, it was not conducted. The state and local bar associations were asked to pick up the project but were unable to do so. However, in 1998, the state and local bar association mounted a joint effort and did continue the Run for Justice. LAND had a seat on the committee and participated in the development and implementation of the Run.

NDLS has received funding from the tribal council for 4 years with no strings attached regarding suits involving the Tribe as defendants.

**Strengths:** Civil legal services programs in North Dakota have solid support for continued funding through filing fee surcharge and IOLTA funds. There is the capacity to apply for special foundation grants for special projects under limited circumstances. NDLS, due to its strong and flexible presence on the reservation, has been able to secure very rare unrestricted funding.

**Weaknesses:** Lack of community approach to developing fundraising strategies and alternatives. A lack of obtaining and having the time to obtain special foundation grants for special projects. A lack of time and resources to take the next major step based on the campaign started by LAND in 1993.

**Goal 1:** To work with the State Bar and the State Bar Foundation, the law school, and other legal services programs to develop a statewide strategy for raising funds outside of core funding sources.

**Major Step 1:** Identify a group of people to come together to study joint legal services Bar Foundation and law school funding. Include people outside of the legal community. Conduct one or more meetings on this topic, if needed, around the state of North Dakota. This would serve the dual purpose of obtaining input and producing visibility for funding needs of legal services. The group would produce a written document with recommendations.

Timetable: 1 ½ years

**Major Step 2:** If a joint funding concept is feasible, develop and implement a campaign.

Timetable : 3 years

**Goal 2:** Acting on strategies. Within 10 years have an additional meaningful source of outside, ongoing funding to supplement existing government core funding that will allow the hiring of additional core staff.

Timetable: 10 years. The level of this funding will probably be nowhere near that of the more populated states, however having the money to add ongoing staff people in addition to any increase in governmental core funding will be a major accomplishment.

## **7. Economical Delivery of High Quality Legal Services Throughout the State.**

### **Current Approach**

The current approach to statewide delivery of legal services in North Dakota has been laid out in the prior sections. To capsulize, Legal Assistance of North Dakota provides legal services, does development work, provides community education, some pro se development, has a private bar component, does some fund raising, has above legal services average technological capabilities, and a Centralized Intake system.

North Dakota Legal Services serves a remote area of west central North Dakota. It is primarily an Indian legal services program and was funded at a time when the funding level for Indian programs was at a much higher level than when Legal Assistance of North Dakota was incorporated and applied for funds to serve the Spirit Lake and Turtle Mountain Reservations. In this way, NDLS is able to maintain a range of expertise, particularly in Indian Law and to provide a wide range of services in a very personalized manner to clients on the Fort Berthold Reservation. Even with the funding cutbacks from 1995 and 1996, the legal staff to client ratio is better than in the rest of the state of North Dakota, other than the law school clinical program. There is no development person per se in that program. There is a contracting PAI component. Their technology, although not uniformly advanced, is acceptable. They have done community education materials and self-help kits geared towards Native Americans as well as non-Native Americans.

LAND and NDLS share information and resources in many areas including technology, mutual referrals on intake, coordination of legal work training, information and expertise, resource development and subcontracting for delivery of legal services in a remote area of LAND's service area. The two areas where LAND and NDLS do not overlap significantly are the areas of self-help pro se kits, development of community education brochures and the operation of PAI contracting system.

Dakota Plains Legal Services, since it is primarily an Indian legal services program based in Mission, South Dakota and serving all reservations in South Dakota as well as non-Indian clients in the western half of South Dakota with the exception of the Black Hills, serves a small portions of clients in North Dakota by virtue of the fact that the Standing Rock Reservation is split virtually in half with part in South Dakota and part in North Dakota. The opportunity for coordination with LAND and DPLS exists primarily of referral, coordination of legal work, training information and expertise, and perhaps community education.

The migrant legal services component, located in Fargo, delivers services to migrant persons in North Dakota and western Minnesota, but primarily targets the large number of potential clients in the shared Red River Valley of North Dakota and Minnesota based on the Joint Venture Agreement. Their work overlaps with LAND and NDLS, but particularly LAND in the area of intake and referral, resource development, and coordination of training with some exchange of information on legal work and expert assistance.

The UND School of Law, although as mentioned previously is not a directly funded LSC program, subcontracts with Legal Assistance of North Dakota to provide services in Grand Forks County and to the Spirit Lake Reservation. The UND clinical legal aid program has a WebPage on which you can find information on major cases to which students are assigned, new projects, and other information about the legal aid work being conducted by the law school. In this regard there is a sharing of information on legal work training and special projects. There is some overlap in resource development, intake, advice and referral and community education since UND contributes articles to "Legal Update".

**Strengths:** Simply put, the legal services programs operating in North Dakota have worked out the ability to come together on issues of importance and to coordinate other activities with each other and with others. This is a benefit of a small state in which contacts and access on a personal basis are easy to accomplish and people are willing to work together.

**Weaknesses:** The weaknesses in North Dakota are self evident. It is a rural, sparsely populated state and since much funding is based on population, resources are scarce. Because it is an agriculturally based state, with not a lot of big business and corporations, it is more difficult to raise outside funding. There are no major foundations residing in the state of North Dakota.

Over the years there has been a lack of independent client driven organizations in North Dakota. This has not changed in the past three or four years. This lack of client organizations, combined with the restrictions on legal services programs organizing client councils for input has made client input as an element in designing the best attributes of a statewide comprehensive delivery system difficult at best.

Although LAND has experienced legal staff in each of its offices, there is a shortage of attorney staff. The highest rate of turnover in LAND is among the staff and managing attorneys. Location, pay and funding uncertainty are all major factors.

With the multiple programs in North Dakota, it does interfere with the seamless passage of information of cases and expertise due to the professional conduct rules.

With the federal funding cuts, the executive director of LAND and the director of litigation and the managing attorney of the Minot office have all taken on many more responsibilities. The time available to work on new initiatives regarding the delivery of legal services is very small unless work priorities are reorganized. The same holds true with NDLS. Despite all of this, much of what is done is coordinated and touches on every area.

**Goal 1:** To prioritize the time table for addressing and implementing all of the various initiatives identified in the state plan.

**Major Step 1:** Request the Joint Committee on Legal Services to the Poor (JCCLSP) to review the state plan and prioritize and develop a comprehensive time table for addressing the issues in the state plan. The joint committee has 2 non attorney members, one who was, when appointed, client eligible, who has been very active in issues affecting low-income people.

Timetable: 2 months

**Major Step 2:** The JCCLSP must identify a mechanism which will ensure meaningful client input into the entire state plan implementation process.

Timetable: 4 months

**Goal 2.** To evaluate the efficacy of having one legal service program be the primary delivery mechanism for legal services on the 4 major reservations in North Dakota, those being Turtle Mountain Band of Chippewas, Spirit Lake, Three Affiliated Tribes and Standing Rock Indian reservations. Although a small geographic portion of the Sisseton Reservation exists in southeastern North Dakota, there is no significant presence or community located on that part of the reservation. It is clearly, essentially a South Dakota reservation.

**Major Step 1:** Contacting all the legal services programs currently delivering services on the four reservations, devise a method for soliciting input from clients, agency and tribal governmental personnel regarding how best to improve the delivery of legal services on the reservations and desirability of one program serving all reservations. Identify a select working group to take the input and work through coming up with recommendations with regard to delivery of enhanced coordinated services to Native Americans in North Dakota.

Timetable: 1-2 Months. To contact all legal services programs would be 1-2 months, to contact all of the entities regarding input on the best practice for the reservations and conducting those forums could run up to one year and developing and producing a plan for implementation could take one more year.

**Goal 3:** Explore the feasibility of merging LAND and NDLS, while preserving the current ability to provide high quality legal services for all segments of the population.

**Major Step 1:** Identify modified delivery mechanism options and their impact on the ability to provide high quality legal services.

Timetable: 8 months

**Major Step 2:** Identify other potential obstacles and adverse consequences including political, cultural, racial, social and professional adverse impacts.

Timetable: 4 months

**Major Step 3.** Identify the value of cost savings and cost increases as well as identifying other administrative and governance adjustments that would be required.

Timetable: 8 months

**Major Step 4:** Produce a written assessment and recommendation on merger.

Timetable: 8 months